

MINUTES

**CITY OF WARR ACRES
REGULAR CITY COUNCIL MEETING
TUESDAY
MARCH 21, 2006
7:00 P.M.**

1. The meeting was called to order at 7:00 p.m. Declaration of a quorum present was given. The Flag salute was lead by Chief Carter and the Invocation was lead by Shala Bartley, Associate Pastor at Victory Christian Center.

ROLL CALL

PRESENT

ABSENT

Mayor Marietta Tardibono
Vice-Mayor Nancy Olson
Councilman Jimmy Alexander
Councilwoman Leslie Owens (in at 7:08 p.m.)
Councilman Bob Wehba
Councilman Rodney Nelson
Councilman Barry Curl
Councilman Jeff Martinez
Councilman Stewart Shapiro

STAFF PRESENT

Pam Ramirez, City Clerk
Bob Jernigan, City Attorney
Roger Patty, Police Chief
Rob Carter, Fire Chief
Mike Turman, City Inspector
Scott Barrett, City Engineer
Wiley Rice, Jr., City Planner

2. Questions and Comments from Warr Acres Residents

The Mayor read a letter from Lavita Harrell saying that she heard a call go out for a fire at Dolese park and then 3 ½ minutes later she heard the fire engine sirens. She thought the response time was fantastic, especially since the response was to an OKC park not a Warr Acres park. The Mayor also read a letter from Betty Clymer stating her thanks to Sgt. Tom Green and Sgt. John Gray for the quick response and recovery of her daughter's purse that was stolen from Cherokee Hills Park. She stated that they found the purse with everything except the cash with in an hour.

The Mayor announced that the Putnam City Pirates Boy's basketball team won the 6-A State Championship and that at the meeting on April 4th she will be

declaring the day PC Pirate day. She also told that one business over spring break did \$350,000 in business of which ½ would provide sales tax to the city.

3. Recess to enter into the Warr Acres Economic Development Authority Meeting.

The Council recessed at 7:07 p.m.

4. Reconvene City Council Meeting.

The Council reconvened at 7:29 p.m.

5. CONSENT DOCKET: (individual items may be deleted from the consent docket for discussion and action under #6.

A.	Approval of Expenditures ****	General Fund	\$ 51,644.40
		E911 Fund	\$ 900.00
		CIP	\$ 2,800.00

- B. Approval of Minutes from the February 21, 2006 Regular Meeting and February 27, 2006 Special Meeting.

- C. Receive the Planning Commission minutes of March 14, 2006.

Councilman Nelson asked to pull item A and Councilman Wehba asked to pull item B.

Motion by Curl, second by Alexander to approve item A. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

6. Discussion and possible action on items removed from the consent docket.

Item A.

Councilman Shapiro asked what Farrington does. He was told that they do transmission work on the Sanitation trucks. He asked if the city could have done the work and he was told that they could not. Councilman Nelson questions claims for the Street and Fire departments and why the purchases were not made in Warr Acres. Chief Carter stated that the supplies in question were for the painting of the Chief vehicles and come from a store specializing in automotive paint supplies. Chief Carter also stated that they try to make purchases in the city any time possible. Councilman Nelson also asked if Mr. Simmons was using the time clock or still keeping his own time. He was told he was still keeping his own time.

Motion by Nelson, second by Wehba to approve item A except the claim for Mr. Simmons. Poll vote: Alexander, yea; Owens, nay; Nelson, yea; Wehba, yea; Martinez, nay; Curl, yea; Shapiro, nay; Olson, nay; and Tardibono, nay.

Motion Failed.

Mr. Simmons stepped up to the podium and stated that he would use a time card but wanted to point out that he had discussed a matter with Councilman Nelson for 30 minutes and did not charge the city for that time. Councilwoman Owens stated that she thought that Mr. Simmons, the Mayor and Councilman Nelson all needed to have a meeting.

Motion by Martinez, second by Owens, to approve item A. Poll vote: Alexander, yea; Owens, yea; Nelson, nay; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

Item B.

Councilman Wehba stated that the minutes needed to be voted on separately.

Motion by Martinez, second by Owens to approve the minutes of February 21st. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, abstain; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

Motion by Wehba, second by Alexander to approve the minutes of February 27th. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Councilman Shapiro asked if Mr. Simmons was going to use a time card because this issue was going to come up over and over. Councilman Alexander stated that even the temporary workers use time cards. Councilwoman Owens stated that she felt this should be discussed in private.

7. Receive reports from Staff: Police, Fire, City Clerk, City Inspector, Street, Sanitation, Sewer, City Engineer, City Planner. ****

Chief Patty-stated that two of the cameras are in and the paperwork on the grants were filed.

Chief Carter-said the fire house renovations are complete and all donations have been spent.

Councilwoman Owens asked Chief Patty to say something again about the gun locks in light of a recent news story. Chief Patty stated that there are gun locks

available free from the police department. The Mayor asked Chief Carter about the burn ban. He stated that it was lifted but expected it to be reinstated soon. He also stated that McDonalds has a storm program called McReady that the city is working with them to get the word out so people will be prepared for storm season.

Engineer Barrett-MacArthur is progressing a gas line was found and ONG was notified. OKC is lowering the water line at 62nd. He said they had a good meeting with ODOT and plans have been set in motion to find future problems early. OG&E cut the top off of poles and left a line that nobody knows who it belongs to, it may be a line that once was connected to the signal lights. He said there had been no progress on the turn lanes. He said that 4 bidders on the Sewer study project were sent out addendums to the bid packet in an effort to answer some questions. The bids will be opened and there will be an item on the April 4th agenda to award the bid. The Mayor sent out a thank you to Rep. Mike Thompson and Congressman Istook for getting the meeting set up.

8. Questions and comments from Council members.

Councilwoman Owens-said the City of Bethany would be getting rid of their Code Enforcement Officer and a Mechanic and possibly Warr Acres could get them.

Mayor Tardibono-announced that there would be a run-off election on April 4th for Ward I and Ward III.

Councilman Curl-said he wanted to remind the attorney and the city planner to work on the ordinance on electronic signs and that the signs should only be used for that businesses purpose and no other purpose they are not billboards. He also wanted to remind the council to pursue sewer lines being replaced and don't put it off and that he was concerned about a line in Ward I. He said the system lines are getting quite old. He asked them to maintain the MacArthur widening and it will be a great thing for the future of the city. He said that when it was all complete and everyone was praising it he did not want to hear all of those who had bad mouthed it taking the credit for it.

Councilman Martinez-talked with the vendor on the software for the fuel pump and the garage is nice and clean. Mayor Tardibono said that Don and the Street department cleaned up the garage. Councilman Martinez asked about the committee that interviewed for the mechanics position and was told that there were three applicants and the person chosen has been given a chance to get schooling and prove he can do the job.

Councilman Shapiro-kudos to Inspector Turman he really does a thorough check of everything, super job.

9. Final Public Hearing, discussion and action on a Planning Commission recommendation concerning adding the use of materials other than factory

applied, painted, exterior rough textured metal for walls in the R-3 and all commercial districts to Section 19.40.130 Architectural Design. ****

Attorney Jernigan stated that this was a recommendation from the Planning Commission for changes to 19.40.130. Chairman Carter said that a number of years ago metal buildings were allowed so a couple of years ago they narrowed it down in commercial and now it seems that possibly those changes were too restrictive. Attorney Jernigan stated that the copy the council had to look at had strike-outs and bolding to point out the changes and that if approved he would prepare the Ordinance for the next meeting.

Motion by Curl, second by Wehba to close the public hearing. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Motion by Curl, second by Martinez to direct the attorney to draft an Ordinance for the next meeting as prepared. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

10. Final Public Hearing, discussion and action on a Planning Commission recommendation deleting the reference to the BOCA Building Code contained in Section 19.04.020 of Title 19.

Attorney Jernigan stated that this is the first step in preparing to switch to the International Building Code which will be in Title 16.

Motion by Curl, second by Martinez to close the public hearing. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Motion by Curl, second by Martinez to direct the attorney to take the appropriate action to delete the BOCA reference. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

11. Final Public Hearing, discussion and action on a Planning Commission recommendation changing the attendance requirements for Planning Commission members contained in Section 19.64.010 of Title 19.

Chairman Carter said that since changes have been made in what issues come before the Planning Commission the commission does not always have regular meetings so therefore the attendance policy does not work. The change requested would be to not allow missing two regular meetings when held, without cause.

Motion by Curl, second by Martinez to close the public hearing. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Councilman Nelson asked he determines cause. Attorney Jernigan stated that it is automatic if they miss two meetings but cause is determined by the commission.

Motion by Curl, second by Martinez to accept the recommendation of the Planning Commission and direct the attorney to do the appropriate documents. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

12. Final Public Hearing, discussion and action on a Planning Commission recommendation on an Enabling Permit for a Wrecker Yard/General Automobile Repair Business located at 5925 NW 37th St. Applicant/Sammy Potter Jr.

Applicant withdrew his application this item was stricken from the agenda.

13. Discussion and possible action regarding a claim that was investigated by the city's insurance company OMAG, their recommendation is for denial, including discussion and action on entering into executive session as allowed under 25 O.S. Supp. 307 (B)(4), confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest. *Jernigan*

Motion by Wehba, second by Martinez to continue this item to the April 4th meeting. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

14. Discussion and possible action on an Ordinance pertaining to political signs.
Olson *****

Councilwoman Olson stated that due to the large amount of calls received at city hall concerning signs she felt the issue needed to be brought up and discussed. She said that this Ordinance was really to get their attention. There was much discussion about how elections for state and federal office candidates would not

be able to be stopped. Councilwoman Owens stated that signs in elections are a necessity. Councilwoman Olson stated that there is an Ordinance on signs currently and it needs to be enforced. Councilman Curl stated that he had calls about person's signs also and they wanted him to do something about them. Councilwoman Owens stated that in future elections the City Clerk needs to include the sign Ordinance with the section highlighted with the packet that are supposed to be picked up for filing for office. She also stated that she had many signs disappear as did other candidates. The Mayor stated that maybe fines needed to be imposed. Mr. Simmons passed out the Ordinance on signs and asked the council if they were going to enforce the ordinance or not on signs that were left up after the election. The Mayor asked that everyone please just make sure all of their signs get picked up.

No action was taken on this item.

15. Discussion and possible action on re-appointment of Traffic Commissioners Dan Gilbert, Ward II; Darrell McDaniels, At-Large and Richard Bricker, Ward IV.

The Mayor asked if there was a motion to approve the re-appointments. Councilman Nelson stated that he would like to nominate Greg Lynn for the Ward IV position. The Mayor asked if there was a motion to approve the re-appointments of Mr. Gilbert and Mr. McDaniels.

Motion by Shapiro, second by Martinez to approve the re-appointments of Mr. Gilbert and Mr. McDaniels. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

Councilman Nelson stated that he would like to have Mr. Lynn as a nominee for the Ward IV position. The Mayor did not understand why this was being presented. Councilwoman Owens stated that she felt that the Ward members should have a voice and be able to nominate who they would like so she said that she thought they should continue this issue to the next meeting so that the resume for Mr. Lynn could be presented to the council for consideration.

Motion by Curl, second by Wehba to continue the Ward IV Traffic Commission appointment to the April 4th meeting. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, nay; Olson, yea; and Tardibono, nay.

Motion Passed.

16. Discussion and possible action on approval of a Mutual Aid agreement with the City of Mustang. *Carter*

Chief Carter the department has several mutual aid agreements with other communities. Right now there is not a written agreement with Mustang only a

standing agreement. It would carry over from year to year unless one of the city's request in writing (90 days) in advance to cancel the agreement. Councilman Curl said, but the agreement would be renewed each year and Chief Carter stated that it would not, it would continue in affect unless one of the cities wished to cancel. Councilman Wehba stated that he understood agreements with Bethany, Yukon, with OKC and even in principal with Piedmont but what do we gain from an agreement with Mustang. Councilman Alexander stated that was his question also. Councilman Wehba said that is an awfully long way and it we had to send a fire truck out there then we would need assistance. Chief Carter stated that it would probable only be the brush pumper. Councilman Wehba said that he could not see a win for the city. Also, they are not even in OK County so how does the County feel about us taking the brush pumper out of the County. Chief Carter said that this came up because of the recent request from Mustang for them to help with the brush fires. He said he really did not see this being a very common instance and is pretty complicated scenario and Yukon would really be the one that would go assist. The standing policy has Yukon assisting Mustang, Bethany covers for Yukon and we cover for Bethany. Councilwoman Owens asked if the statement in the agreement that says the requesting city will not ask for reimbursement of expenses could be changed to include reimbursement. Chief Carter stated that if no agreement exists then that is the case. Councilmen Wehba, Nelson and Alexander all stated their concern was coverage for Warr Acres if we go to Mustang. Again Councilman Wehba asked how OK County felt about us sending the County brush pumper to another county. Chief Carter stated that counties have agreements between each other. Chief Carter said that he would never leave the city with out service and always keeps it manned with the city's best equipment. Chief Carter stated that he believed that this agreement was for the very rare instance and is a very standard agreement.

Motion by Curl, second by Nelson to accept the agreement with the change from 90 day opt out clause making it 30 days, and by making it renewable annually.
Poll vote: Alexander, nay; Owens, yea; Nelson, yea; Wehba, yea; Martinez, nay; Curl, yea; Shapiro, nay; Olson, yea; and Tardibono, yea.

Motion Passed.

17. Discussion and possible action on a claim filed by Tommy Pike, including discussion and action on entering into executive session as allowed under 25 O.S. Supp. 307 (B)(4), confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest.

Clerk Ramirez said that she had not notified Mr. Pike that this item was on the agenda, she stated that she had no doubt that he would be present because he comes to all meetings, but she did not notify him and she wanted everyone to be aware of that.

Bob Jernigan stated that he did not believe there was a need for executive session. Councilman Martinez asked Attorney Jernigan what his recommendation was. He stated that he recommended the same as the insurance company and that was that this did not meet the governmental tort claims criteria and should be denied. The Mayor asked if there was further discussion on this issue. Councilman Nelson asked if Mr. Pike had anything he would like to say about the claim. The Mayor asked him if he would like to speak. Mr. Pike made a comment from the back of the council chambers and Councilwoman Owens asked him what that comment meant and to come to the microphone and repeat for everyone what he had just said. The Mayor asked him to come to the podium and repeat what he had said for the council. He came forward and stated that they do what they had to do and he would do what he had to do to correct the wrong. Councilwoman Owens asked him what his recourse was if he were to be denied. Mr. Pike told her to ask her husband that he was an attorney. Councilwoman Owens stated that if there was any further discussion on this item it would be because he has filed litigations? Attorney Jernigan stated that he assumed so. Councilwoman Owens stated so that would cost the taxpayers more money to address that issue. Attorney Jernigan stated that under the governmental tort claims act he has a certain amount of time in which to initiate litigation as a challenge and that is his right. Councilman Nelson asked if it was his understanding that Mr. Pike was asking for attorney fees because of the council's actions on not placing a council seat on the election so the council cost him money. Attorney Jernigan said that he has filed a claim under the governmental tort claims act. He said that there are huge amounts of exemptions on tort claims and that is why the insurance company said that they cover on an occurrence, like an accident or some other matter like that and therefore does not meet the definition of an occurrence. He also said that he did not know that if there were to be attorney fees paid it would have been done at the court level so it is his recommendation for denial. Mr. Pike stated that he would like to make a comment and said that when he came in to file it, and Pam should verify this, I did not ask her to file a tort claim. Attorney Jernigan stated that he filed it under the tort claims act. Mr. Pike said that was what Pam said. Clerk Ramirez said that is how she files all claims that are brought into the city. Attorney Jernigan said it is not necessarily a tort claim if there is a different type of claim then he can file it but it is being denied as a tort claim. Mr. Pike stated that he would go on with it. Attorney Jernigan stated that sounded good. Mr. Pike said that some people would get hurt in this and Councilwoman Owens asked if he was referring to physically or in the pocket book. Mr. Pike said not physically and Councilwoman Owens said she just wanted to give a chance to clarify it. Councilman Curl said he needed to understand if there was another way for him to file the claim. Attorney Jernigan said no, he will have to initiate litigation to accomplish this. The city does not have a procedure for the claim other than the governmental tort claims act, he has filed a claim that there is just no responsibility for. Councilman Curl said this is the one where we went to court and the judge ruled against us. Attorney Jernigan answered, yes, usually attorney fees are determined at the time of hearing. Councilman Curl asked if at the time of the hearing there was no filing for that. Attorney Jernigan stated that there was no application or seeking of attorney's fees and no award of attorney's fee. Councilwoman Owens said if he hired a

legal firm they did not do what they should have done at the time. Attorney Jernigan said that he would prefer to let that one go.

Motion by Martinez, second by Tardibono to take the advice of the attorney and deny the claim. Poll vote: Alexander, nay; Owens, yea; Nelson, nay; Wehba, nay; Martinez, yea; Curl, nay; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

18. Any Old or New Business (“New Business” is defined by the Open Meeting Act as any matter not known about or which could not have been reasonably foreseen prior to the time of posting of the agenda of a (“surprise nature”)).

Moot.

19. Adjournment.

Motion by Martinez, second by Shapiro to adjourn. Poll vote: Alexander, nay; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Pamela McDowell-Ramirez

City Clerk

Warr Acres Economic Development Authority Meeting
March 21, 2006

The Economic Development Authority convened at 7:07 p.m.

ROLL CALL

PRESENT

ABSENT

Chair Marietta Tardibono
Vice-Chair Nancy Olson
Trustee Jimmy Alexander
Trustee Leslie Owens (in at 7:08 p.m.)
Trustee Bob Wehba
Trustee Rodney Nelson
Trustee Barry Curl
Trustee Jeff Martinez
Trustee Stewart Shapiro

1. Approval of Minutes of the Meeting of Economic Development Authority Regular Meeting of February 21, 2006 and Special Meeting of February 27, 2006. ****

Motion by Curl, second by Martinez to approve the minutes. Poll vote: Alexander, yea; Owens, abstain; Nelson, yea; Wehba, abstain; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed.

2. Approval of claims. **** \$ 2,975.40

Motion by Curl, second by Martinez to approve the payment of claims. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

3. Discussion and possible action on appraisal or proposals and possibly entering into Executive Session as allowed under 25 O.S. Supp 307 (C)(10), All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces, or study group supported in whole or part by public funds, or entrusted with the expenditure of public funds for purposes of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to locate within their jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business.

Trustee Curl recommended the waiving of the reading of the item. There were no objections.

Motion by Owens, second by Martinez to enter into executive session with Mr. Farris and Mike Gossman to stay. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The Trustees entered into executive session at 7:10 p.m.

The Trustees returned to open session at 7:15 p.m. With no action taken.

4. Discussion and possible action on approval to have signs and banners produced and the expenditure of funds. *Owens*

Trustee Owens said that she did not think they were prepared to approve expenditures tonight but that she passed out some cost related to the whole campaign that was proposed several months ago. The campaign would have three visual elements entrance and exit signs posting the low sale tax rate and “Wonderful Living in Warr Acres”, merchant window stickers saying “Wonderful Shopping in Warr Acres” with the new tax rate on it and banners with the merchants sponsorships that would be available for purchase, for a one year posting for businesses that provide sales tax dollars. The prices include the purchase of all signs, however, it could be done in many different ways to save money. She stated that she knows that some wanted different color schemes but she did not get them and they are limited to the colors of vinyl available. The blue is a medium to dark blue and you need enough contrast to make that splash of color and any changes in font can be done to make it easier to read. On the banners the businesses could purchase an annual advertising for the banner of, \$250.00 and that would off set the cost. Councilman Wehba asked if the city would not be opening itself up to lawsuits such as the one in OKC. Councilwoman Owens stated that it would only be for revenue generating businesses and would give some public awareness. Councilman Wehba stated that an Ordinance or Resolution needed to be done before this goes any farther so those rules are already set out. Councilman Shapiro stated that he did not feel that at this time the city needed to be spending any money as far as he was concerned the money bags are closed. There was much discussion on this issue and it was decided that they would wait until next fiscal year to bring it up again.

5. Adjournment of the Warr Acres Economic Development Authority Meeting.

Motion by Martinez, second by Shapiro to adjourn the Economic Development Meeting. Poll vote: Alexander, yea; Owens, yea; Nelson,

yea; Wehba, yea; Martinez, yea; Curl, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

Motion Passed Unanimously.

The Economic Development Meeting was adjourned at 7:38 p.m.

Respectfully submitted,

Pamela McDowell-Ramirez
City Clerk